Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

balance of the purchase money. *Held,* that he was barred by the statute of limitations. *Craig* v. *Gauley Coal Land Co.,* (W. Va. 1914), 80 S. E. 945.

Some states have statutes of limitations which apply to equitable as well as to legal causes of action. Under such statutes an equitable cause of action will be barred, unless expressly excepted: *Lile* v. *Kincaid,* 142 S. W. 434; *Wentworth* v. *Wentworth,* 75 N. H. 547, 78 Atl. 646. In the absence of these statutes there is no strict time which bars actions in equity; for relief may be granted even after the running of the statute, or an action may be barred in a shorter time. *Carlock* v. *Carlock,* 249 Ill. 330, 94 N. E. 507. The statute of limitations does not control suits in equity with the same strictness as it does actions at law: *Moneta* v. *Hoffman,* 249 Ill. 56, 94 N. E. 72. The cause of action in the principal case, if any existed, arose from the mutual mistake of the parties as to the quantity of land conveyed. For the correction of such a mistake, resort may be had to a court of law or a court of equity, as the injured party may elect. See cases cited in principal case. Equity therefore has concurrent jurisdiction. As a general rule where the jurisdiction of courts of equity and courts of law is concurrent, if a recovery at law is barred by delay, no recovery can be had in equity. *Tooker* v. *Nat'l Sug. Ref. Co.,* 80 N. J. Eq. 305; *Bowes* v. *Cannon,* 50 Colo. 262, 116 Pac. 336; *City of Centerville* v. *Turner County,* 126 N. W. 605. The statute will begin to run from the time the cause of action arises, unless the plaintiff, without fault or neglect on his part, is ignorant of the mistake. The bill in the principal case carries on its face an admission of knowledge sufficient to put the plaintiff on inquiry as to the quantity of land. The plaintiff, therefore, was not without fault, and the statutory period having run, and his legal action being barred, he is barred in equity also.

EXECUTION—WHAT CONSTITUTES A VALID LEVY.—Where a marshal attempting to make a levy on a stock of merchandise is prevented from entering the premises and his deputies who are admitted do no act beyond merely announcing the purpose of their entrance and the fact of their deputization, *held,* there was not a valid levy. *Hobbs* v. *Williams, et al.* (Mo. 1914), 162 S. W. 334.

The decision in the principal case reaffirms the common test of the validity of a levy, namely, the doing of some act by the officer, which but for the protection of the writ, would render him liable as a trespasser. *Douglas* v. *Orr,* 58 Mo. 573; *State ex rel. McPherson* v. *Beckner,* 132 Ind. 371, 31 N. E. 950, 32 Am. St. Rep. 257; *Battle Creek Valley Bank* v. *First Nat. Bank,* 62 Neb. 825, 88 N. W. 145, 56 L. R. A. 124; *Pitkin* v. *Burnham,* 62 Neb. 385, 87 N. W. 160, 55 L. R. A. 280, 89 Am. St. Rep. 763; *Hibbard* v. *Zenor,* 75 Ia. 471, 39 N. W. 714, 9 Am. St. Rep. 497. See *Green v. Burke,* 23 Wend. (N. Y.) 490; *Russell* v. *State* (Ga.), 79 S. E. 495; *Sanders* v. *Carter,* 124 Ga. 676, 52 S. E. 887. The nature of the act required, however, must necessarily depend largely upon the facts of each particular case, with special consideration of the persons against whose rights the levy is sought to be asserted and the nature of the property involved; and the exercise

or assumption of dominion without manual interference is often sufficient. *Throop v. Maiden,* 52 Kans. 258, 34 Pac. 801; *Boslow* v. *Shenberger,* 52 Neb. 164, 71 N. W. 1012, 66 Am. St. Rep. 487. See *Dorrier* v. *Masters,* 83 Va. 459, 2 S. E. 927. Thus a levy may be good as against the defendant in the writ, when it would not be good as to third persons. This is based upon the fact that the defendant's conduct may amount to a waiver or an estoppel or an agreement that there shall be a levy, even in the absence of overt arts on the part of the officer. *Taffts* v. *Manlove,* 14 Cal. 48, 73 Am. Dec. 610; *Throop* v. *Maiden, supra.* Again the nature of the property may render it sufficient that the officer do on the premises some open and unequivocal act which as nearly as possible amounts to a seizure, and indorse the levy on the writ. *Boslow* v. *Shenberger, supra.* Thus where execution is sought to be levied on growing crops, the taking of which would necessarily mean their destruction, or on ponderous or immovable property, or on the contents of a locked receptacle or safe, or where the taking of actual possession is unfeasible or impractical, an assertion of authority and the posting of notices, or the calling of witnesses has been deemed sufficient. *Bank of Holton* v. *Duff* (Kans.), 94 Pac. 260, 16 L. R. A. (N. S.) 1047; *Davidson* v. *Waldron,* 31 Ill. 120, 83 Am. Dec. 206; *State* v. *Fowler,* 88 Md. 601, 42 Atl. 201, 42 L. R. A. 849, 71 Am. St. Rep. 452 (levies on growing crops); *Smith* v. *Clark,* 100 Ia. 605, 69 N. W. 1011; and note in 41 L. R. A. (N. S.) 764 (contents of locked receptacles). In the principal case, however, there was neither actual interference with the stock or any part of it, and the act of the deputies in entering the premises and merely announcing their purpose, in the absence of any symbolical act, cannot be construed as such an assumption of authority as to bring the case under the above cited decisions. *Meyer* v. *Missouri Glass Co.,* 65 Ark. 286, 45 S. W. 1062, 67 Am. St Rep. 927; *Hibbard* v. *Zenor, supra.*

GARNISHMENT—JURISDICTION OF DEFENDANT.—Where plaintiff sought, by a proceeding in garnishment, to subject certain accounts of the defendant in a local bank to the payment of any judgment that might be obtained against him, *held,* the court had jurisdiction to render judgment, though the service is by publication and the defendant does not appear. *State, ex rel., Bank of Herrick* v. *Circuit Court of Gregory County,* (S. D. 1913), 143 N. W. 892.

The principal case illustrates an assumption of jurisdiction, which since the decisions in *Harris* v. *Balk,* 198 U. S. 215, 25 Sup. Ct. 625, 49 L. Ed. 1023, 3 Ann. Cases 1084; and *L. & N. R. Co.* v. *Deer,* 200 U. S. 176, 26 Sup. Ct. 207, 50 L. Ed. 426, is entitled to full faith and credit in the several states. In the earlier cases in this country much learning was expended in an effort to determine, for the purposes of garnishment, the original situs of the debt. See *Nat. Broadway Bank* v. *Sampson,* 179 N. Y. 213, 71 N. E. 766; *L. & N. R. Co.* v. *Nash,* 118 Ala. 477, 23 So. 825, 41 L. R. A. 331, 72 Am. St. Rep. 181; *Ill. Cent. R. Co.* v. *Smith,* 70 Miss. 344, 12 So. 461, 19 L. R. A. 577 and note, 35 Am. St. Rep.651. But it is now well settled that, where the question is merely one of power, a consideration of the situs of the debt is unnecessary. *Harris* v. *Balk, supra; L. & N. R. Co.* v. *Deer, supra;*